

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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05 MAY 11 PM 4:32

ROBERT R. DI TROLIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

KEVIN MILLEN,

Plaintiff,

vs.

FRIEDMAN'S, INC.,

Defendant.

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X

No. 04-3016-M1/An

ORDER DENYING LEAVE TO PROCEED IN FORMA PAUPERIS
AND
ORDER DIRECTING PLAINTIFF TO PAY THE CIVIL FILING FEE

Plaintiff Kevin Millen filed a pro se complaint pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., and the Americans with Disabilities Act, 29 U.S.C. § 12111 et seq., on December 15, 2004, along with a motion seeking leave to proceed in forma pauperis.

Federal law provides that the "clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$150." 28 U.S.C. § 1914(a). To ensure access to the courts, however, 28 U.S.C. § 1915(a) permits an indigent plaintiff to avoid payment of filing fees by filing an in forma pauperis affidavit. Under that section, the Court must conduct a satisfactory inquiry into the plaintiff's ability to pay the filing fee and prosecute the lawsuit. A plaintiff seeking in

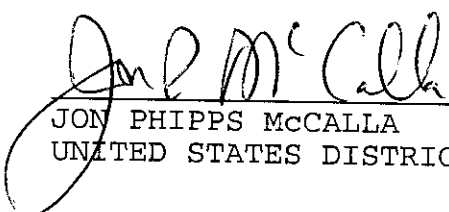
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with Rule 58 and/or 79(a) FRCP on *5/16/05*

3

forma pauperis standing must respond fully to the questions on the Court's in forma pauperis form and execute the affidavit in compliance with the certification requirements contained in 28 U.S.C. § 1746. See, e.g., Reynolds v. Federal Bur. of Prisons, 30 Fed. Appx. 574 (6th Cir. Mar. 11, 2002); Broque v. Fort Knox Fed. Credit Union, No. 86-1896, 1997 WL 242043 (6th Cir. May 8, 1997).

As the Plaintiff's motion to proceed in forma pauperis contains no information concerning his monthly income, assets, and financial obligations, the Court has no basis for concluding that he is indigent and unable to pay the filing fee or to give security therefor. Accordingly, the motion to proceed in forma pauperis is DENIED. The plaintiff is ORDERED, within thirty (30) days of the date of entry of this order, to pay the \$150 civil filing fee. Failure to timely comply with this order will result in dismissal of this action, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 11 day of May, 2005.


JON PHIPPS MCCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 3 in case 2:04-CV-03016 was distributed by fax, mail, or direct printing on May 16, 2005 to the parties listed.

Kevin Millen
4104 Stillwood Dr.
Memphis, TN 38128

Honorable Jon McCalla
US DISTRICT COURT